

FCC MAIL SECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
 JUL 16 1999
 Washington, D.C. 20554

FCC 99M-42

90576

In re Applications of)	MM DOCKET NO. 99-153
READING BROADCASTING, INC.)	
)	File No. BRCT-940407KF
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS CORPORATION)	File No. BPCT-940630KG
)	
For Construction Permit for a New)	
Television Station to Operate on)	
Channel 51, Reading, Pennsylvania)	

ORDER

Issued: July 14, 1999

;

Released: July 15, 1999

These are rulings in furtherance of the first Prehearing Conference that was held on July 13, 1999. See Order 99M-40, released June 25, 1999. Reading Broadcasting, Inc. ("Reading"), Adams Communications Corporation ("Adams"), and the Mass Media Bureau ("Bureau") were represented by their respective counsel.¹

Preliminary Motion

The competing parties shall file and serve on **July 22, 1999**, a motion which addresses the following:

- A. The current (post Bechtel II) evidentiary criteria for the adjudication of the standard comparative issue.²

¹ Thomas J. Hutton, Esquire made a special appearance representing Reading only at this conference. It was understood that all rulings, including schedulings, would be binding on Reading and Reading's future counsel.

² See e.g. First Report and Order, FCC 98-194, released August 18, 1998, 13 FCC Rcd 15920, 16006 (renewal applicants may present standard comparative factors they believe to be most appropriate and case to be decided "as nearly as possible according to the standards in effect prior to Bechtel II").

- B. The relevant period of time for determining a renewal expectancy for Reading in this proceeding.³

The competing parties shall file and serve their responsive pleadings and the Bureau shall file and serve its comment pleading by **July 29, 1999**.

Discovery

The parties have agreed in principal to cooperate in their discovery and to thereby minimize the need for motions seeking remedial assistance in obtaining information.

The parties were authorized to commence their discovery on July 14, 1999. Such discovery may include requests for documents, interrogatories seeking the identity of the names and positions of individuals with relevant knowledge, and requests for admissions. Counsel for Reading, noting a concern for future duplicative requests for information, objected to embarking on discovery before a resolution of the duration of the renewal period. Counsel for Adams assured that there would be no duplicative discovery and represented that there will be no duplicative requests for information. Bureau counsel had no objection to immediate discovery. There being no showing of prejudice to any party, in the interest of moving this case to hearing, the Presiding Judge authorized the commencement of reasonable discovery on or after **July 14, 1999**.

Diversification, Renewal and Status

The following reporting requirements were set:

August 16, 1999 - Each competing party is to review and, if needed, update information on diversification that appears in the respective applications and amendments. Such information shall be specifically updated to include any prospective media interests, including applications that are on file or that are intended to be filed. Such definitive diversification statements shall be filed and served on August 16, 1999.

³ If the parties agree to a relevant renewal period and file a stipulation that is consented to or approved by the Bureau on or before July 22, 1999, the renewal question need not be fully briefed. However, the parties should address any effect that Reading's prior bankruptcy may or should have on the renewal period and/or the renewal expectancy.

August 16, 1999 - Reading is to state in writing for the record the renewal expectancy period relied on that will control the scope of its evidence on renewal.⁴ Reading shall also state the legal standard(s) that it will rely on for establishing an entitlement to an expectancy, the general scope of the evidence that will be used in support of the expectancy, and the estimated number and description of the types of witnesses anticipated to testify for Reading on the expectancy issue. Reading is to file and serve this information on August 16, 1999, and may include it in the aforementioned diversification statement.

August 23, 1999 - Applicant parties are to file Status Reports On Discovery with respect to production of documents, depositions then noticed, and depositions expected to be noticed. The Reports must also estimate the time needed to complete the parties' respective discovery.⁵

Procedural Dates

The parties were alerted at the conference to prepare for a hearing date that would be set by the Presiding Judge in late October 1999.⁶ The following dates ARE NOW SET:

July 14, 1999 - Discovery starts.

September 24, 1999 - Discovery closes.

⁴ Reading should use the renewal expectancy dates determined in an interlocutory ruling by the Presiding Judge on renewal expectancy as contemplated above. Reading can object to the dates determined by the Presiding Judge but still must comply. Alternatively, Reading can rely on stipulated dates that are approved by the Presiding Judge.

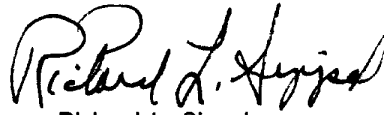
⁵ The Bureau is not required to file a Status Report On Discovery. However, by September 2, 1999, the Bureau may file a comment pleading on the progress of the discovery of the applicants.

⁶ The Presiding Judge read into the record procedural dates that contemplated an earlier hearing. With the concurrence of counsel obtained on-the-record, those earlier dates are now adjusted ahead. The Presiding Judge recognizes that these dates may need further adjustments, particularly since Reading has not yet retained its litigation counsel. But there will be no unreasonable delays permitted merely because of delay in retaining counsel. See Rio Grande Broadcasting Co., et al., 6 FCC Rcd. 7464 (Review Bd.), released December 20, 1991, (Presiding Judge has "great latitude on regulating the course of an evidentiary hearing" and "litigation expenses" do not justify a stay).

- October 4, 1999 - Exchange cases (premarked exhibits, sworn written testimony, requests for official notice, stipulations).⁷
- October 5, 1999 - Subpoenas submitted for signature.
- October 7, 1999 - Trial Briefs. ⁸
- October 12, 1999 - Witnesses notifications for cross examination.
- October 21 - 22, 1999 - Admissions session.
- October 26, 1999 - Hearing commences.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION


Richard L. Sippel
Administrative Law Judge

⁷ All direct case documents shall be assembled in a binder with each exhibit bearing a number and a tab and with each exhibit being separately paginated. The exhibits shall be serially numbered beginning with the number 1 preceded by a sponsoring party's prefix (e.g. Reading Exhibit I). Stipulations shall be executed by counsel and submitted as joint exhibits, properly bound and paginated. Documents for which official notice is requested must also be separately bound and marked for identification.

⁸ The trial briefs shall at a minimum contain the following:

1. A concise proffer of what the party intends to prove.
2. A brief summary of what each witness is expected to testify to in support of the proffer of proof.
3. A list of the documents which will be moved into evidence, a brief description of each document, and a statement of relevance with respect to each document.
4. Points and Authorities for anticipated evidentiary, procedural and substantive issues, citing only key cases and authorities relied on.